

AUG 06 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ARMANDO GAMEZ-AMARO,

Defendant - Appellant.

No. 07-10255

D.C. No. CR-06-00285-CKJ

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Arizona

Cindy K. Jorgenson, District Judge, Presiding

Submitted July 22, 2008^{**}

Before: B. FLETCHER, THOMAS and WARDLAW, Circuit Judges.

Armando Gamez-Amaro appeals from the 60-month sentence imposed following his guilty-plea conviction for conspiracy to possess with intent to

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

distribute marijuana, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B)(vii) and 846.

We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Gamez-Amaro challenges the district court's application of a two-level aggravating role enhancement under U.S.S.G. § 3B1.1(c). Because the record reflects that Gamez-Amaro's co-defendants stated that he recruited them and directed them to assist him with packing marijuana, we conclude that the district court's application of the enhancement was not clearly erroneous. *See United States v. Maldonado*, 215 F.3d 1046, 1050 (9th Cir. 2000) ("A single incident of persons acting under a defendant's direction is sufficient evidence to support a two-level role enhancement.").

The district court did not abuse its discretion in concluding that an evidentiary hearing was not required. *See United States v. Berry*, 258 F.3d 971, 976 (9th Cir. 2001).

AFFIRMED.